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SUBJECT: TURKEY: RELIGIOUS MINORITIES VOICE OPPOSITION TO  
DRAFT FOUNDATIONS LAW

Classified By: Political Counselor Janice G. Weiner, reasons 1.4 (b),(d)  
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11. (C) Summary and comment: Turkey's traditional religious minority communities -- Greek Orthodox, Armenian Orthodox, and Jewish Community -- recently have criticized elements of a draft Foundations Law, vetoed in 2006 by then-President Sezer, that Parliament is expected to take up in early 2008. All three groups believe the draft law fails to compensate for seized properties registered after 1936 and expropriated properties sold to third parties. The Greek and Armenian Communities oppose the bill outright, maintaining it backslides. They say it makes implementation conditional on Greece taking reciprocal steps, and allows the government to take control of foundations and seize associated properties. The Jewish Community and the EU Commission believe these deficiencies are outweighed by the bills progressive steps, such as enabling them to recover some properties and granting them more managerial control over foundations. Although the law is imperfect, it goes significantly further than past steps, and could be a bellwether of further reforms. End summary and comment.

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GOT Plans to Re-Pass Foundations Law in 2008  
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12. (SBU) Turkey's EU Secretariat Political Chief Cem Kahyaoglu told us he expects Parliament to re-pass in early 2008 a Foundations Law that was partially vetoed by then-President Sezer in November 2006. Ruling Justice and Development Party (AKP) whip Sadullah Ergin told us the Foundations Law was one of several laws Parliament would take up after passing a budget (completed last Friday). Yusuf Beyazit, DG of Turkey's Foundations Directorate (the "Vakiflar"), explained the Vakiflar had prepared the law in 2005, as part of Turkey's Ninth EU Reform Package, to address the conflict over properties belonging to Turkey's historic minority communities. The law would ease administrative restrictions on foundations by allowing them to acquire, exchange, and dispose of properties without governmental permission, and to establish corporations to help them to carry out investment activity, according to Beyazit. The law also would establish an 18-month period within which foundations could apply to recover properties catalogued in a 1936 GOT declaration and expropriated by the State.

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At Issue: Non-Muslim Properties Seized by the State  
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¶3. (SBU) Churches and other non-State religious institutions have no legal personality in Turkey and thus cannot own property in their own right. For this reason, religious community properties such as churches, monasteries, and schools tend to be owned by Religious Community Foundations that come under the authority of the Vakiflar. Although Article 40 of the 1923 Lausanne Treaty granted religious minority communities the right independently to administer their own foundations, the Turkish state has regularly intervened in the management of these foundations.

¶4. (SBU) In 1936, the GOT required foundations to declare all their properties in a land registry. In 1974, amidst mounting tensions over Cyprus, the Turkish High Court of Appeals (the "Yargitay") issued a ruling that minority religious foundations had no right to acquire properties beyond those listed in the 1936 declarations. The State subsequently seized control of properties acquired after ¶1936. That ruling also allowed the State to confiscate properties, including those declared in 1936, under certain conditions. Most expropriated properties belonged to the Greek Orthodox and Armenian Orthodox foundations. The properties included not only churches but also rent-generating assets such as apartment buildings.

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Religious Minorities Say Foundations Law Seriously Flawed  
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¶5. (SBU) Representatives from the Greek Orthodox, Armenian

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Orthodox, Jewish, and Assyriac communities pointed out the bill's shortcomings at a December 6 Istanbul conference organized by the Turkish Economic and Social Studies Foundation (TESEV). Dilek Kurban, TESEV's Director of Democratization, told us the groups agreed the draft law has five major shortcomings:

--it fails to reverse allegedly arbitrary State decisions to confiscate foundations' properties declared after 1936 -- the bulk of properties seized by the State;

--it fails to address the issue of expropriated properties sold to third parties;

--it does not allow communities to recover foundations over which the government took control when there were no descendants of the original founders or trustees (so-called "mazbut" or "fused" foundations);

--it makes implementation conditional on Greece taking reciprocal steps; and

--it prohibits foundations from participating in activities abroad.

¶6. (C) The Greek Orthodox community has expressed the loudest opposition to the draft law. Greek Orthodox Metropolitan Meliton explained to us that the law failed to compensate the community for the more than 2000 properties seized and sold by the GOT -- far more than other groups. Greek community lawyer Kezban Hatemi stated the new law would officially sanction the Vakiflar's ability subjectively to declare that a foundation had no appropriate heir. Armenian Community lawyer Luiz Bakar told us the GOT had seized approximately 35 of her community's properties. Bakar agreed the law was flawed but also believed it would bring some advances, such as liberalizing rules governing foundations' ability to manage properties and purchase new property. Bakar emphasized that the Armenian Community finds other issues more pressing, particularly the continuing inability of

children of undocumented Armenian citizens residing in Turkey to attend Armenian schools.

17. (C) Kurban told us the Jewish Community had also expressed opposition to the law at TESEV's conference, but had refused to join the other groups in speaking out publicly for fear of jeopardizing an historically good relationship with the GOT. Jewish Community Executive VP Lina Filiba told us during a private meeting that the law was imperfect -- the GOT had watered down earlier versions -- but was a step in the right direction. One key shortfall, according to Filiba, is that the law does not address returning confiscated minority community cemeteries now owned by municipalities.

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EU: Re-Passing Foundations Law a Key Symbolic Step  
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18. (SBU) EU Commission Political Counselor Diego Mellado told us re-passing the Foundations Law would be an important message that the GOT is committed to re-starting a stalled reform process. EU Commission Political officer Sema Kilicer maintained the current draft does much to advance the rights of religious minorities, and that future laws could address controversial issues such as expropriated properties sold to third parties and the "mazbut" system. A main advance is that the law is not limited to the three "traditional" minorities (Jewish, Armenian Christian, and Greek Orthodox) but applies to Chaldeans, Bahai's, and all other groups. The draft law also would give foundations more leeway in managing their properties, allow minority communities to recover some expropriated properties -- though admittedly through a confusing and untried legal process -- and allow foundations to amend their charters, helping them prevent the Vakiflar from seizing properties based on its judgment that the foundation is no longer pursuing its original purpose.

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